

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

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|-------------------------|---|------------------------------|
| IN RE: | § | CASE NO.: 09-51205C |
| | § | |
| MACHADO, JOSE C. | § | |
| | § | |
| DEBTOR | § | CHAPTER 13 PROCEEDING |

**MOTION TO MODIFY PLAN AND FIRST APPLICATION FOR ADDITIONAL
ATTORNEY'S FEES
IN RESPONSE TO TRUSTEE'S MOTION TO DISMISS**

NOTICE OF OPPORTUNITY FOR HEARING

IF YOU OBJECT TO THIS MOTION TO MODIFY PLAN, YOU MUST FILE A WRITTEN OBJECTION WITH THE CLERK OF THE COURT WITHIN TWENTY DAYS FROM THE DATE OF THE SERVICE OF THIS MOTION. IF AN OBJECTION IS FILED, THEN A HEARING ON THE MOTION WILL BE HELD ON DECEMBER 3, 2009 AT 1:30 P.M. FAILURE TO FILE A TIMELY OBJECTION AND/OR APPEAR AT THE HEARING COULD RESULT IN THE COURT'S GRANTING THE RELIEF REQUESTED.

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW DEBTOR, and files this, MOTION TO MODIFY PLAN AND FIRST APPLICATION FOR ADDITIONAL ATTORNEY'S FEES IN RESPONSE TO TRUSTEE'S MOTION TO DISMISS and as grounds therefore would show as follows:

I.

Debtor fell behind on his plan payment because he wasn't receiving any trucking jobs. During this time the Debtor was not able to fund his plan and pay his regular living expenses with this shortage of income. The Debtor is now back to running full time.

II.

The Debtor has resumed making regular payments to the Chapter 13 Trustee and would request that the plan payment arrearage that currently exists through October 2009 be cured by having the balance of the arrearage be added to the end of Debtor's Chapter 13 plan and extending the plan as required. This modification will extend the plan to sixty four months.

Further, the Debtor requests he be allowed to increase his plan payment to \$723.00 per month. Debtor entered into an agreed order with Us Bank Home Mortgage to add post petition and pre petition home payments and fees into the plan. Us Bank Home Mortgage will be paid

\$10,883.77 as a secured claim + 7% interest in Debtor's bankruptcy. The Trustee's monthly disbursement to Us Bank Home Mortgage will be \$232.00 a month based on this figure. All other secured creditors will be paid as originally scheduled. The percentage paid to the unsecured creditors will be approximately 6%. Debtor's new plan payment will begin in November 2009.

III.

Furthermore, Debtors' attorney, Magdalena Gonzales requests an additional \$750.00 compensation be paid to her for work done on the Motion to Lift Stay, Motion to Modify Plan and Response to Trustee's Motion to Dismiss which was not anticipated in the original attorney fees. The Debtors' attorney has been granted \$0.00 in post-confirmation attorney fees. Additionally, the preparation of the motion and the mailing of this instant notice to all members of the matrix require extra fees.

This Motion, crafted between the attorney and client, and typed by our administrative staff, is without the advice or counsel of the Trustee's office. It is our belief we are entitled to the full supplemental fee requested, being solely responsible for its content. Additionally, Debtors' attorney request this fee be paid in accord with the General Order Regarding Debtors' Attorneys Fees in Chapter 13 Cases, dated the 20th day of April of 2005.

Wherefore, Premises Considered, Debtors request that after notice the Court approve this DEBTOR'S MOTION TO MODIFY PLAN IN RESPONSE TO TRUSTEE'S MOTION TO DISMISS AND FIRST APPLICATION FOR ADDITIONAL COMPENSATION.

Respectfully submitted,

/s/ _____
MAGDALENA GONZALES
TEXAS BAR#0078758
ATTORNEY FOR DEBTOR
2939 Mossrock, Ste 130
San Antonio, TX 78230
(210)530-5002/(210)530-5004 Fax

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon the following parties via electronic means as listed on the court's ECF noticing system or by regular first class mail on November 11, 2009 to:

J. Vincent Cameron
Chapter 13 Trustee
909 NE Loop 410, Suite 400
San Antonio, Texas 78209

U. S. Trustee
P.O. Box 1539
San Antonio, TX 78295

Jose C. Machado
13642 Coleridge
San Antonio, TX 78217

Arrow Financial Services
5996 W Touhy Ave
Niles, IL 60714

Asset Acceptance
PO Box 2036
Warren, MI 48090

Calvary Portfolio Services
Attention: Bankruptcy Department
PO Box 1017
Hawthorne, NY 10532

Citi Corp Credit Services
Attn: Centralized Bankruptcy
PO Box 20507
Kansas City, MO 64195

Credit Management
4200 International Pwy
Carrollton, TX 75007

Dt Credit Co
PO Box 29018
Phoenix, AZ 85038

Linebarger Goggan Blair & Sampson
711 Navarro, Suite 300
San Antonio, TX 78205

Lvnv Funding Llc
Po Box 740281
Houston, TX 77274

Merchantile
PO Box 9016
Williamsville, NY 14231-9016

Midland Credit Mgmt
8875 Aero Dr Ste 200

San Diego, CA 92123

NCS Corp
PO Box 1787
Longview, WA 98632

Paccar Financial Cor
777 106th Ave Ne
Bellevue, WA 98004

Sequoia Financial Services
500 N . Brand Blvd; Ste 1200
Glendale, CA 91203-3950

Texas Workforce Commission
Controller Department
PO Box 149352
Austin, TX 78714-9352

Us Bank Home Mortgage
Attn: Bankruptcy Dept
PO Box 5229
Cincinnati, OH 45201

Wells Fargo
Attn: Collection Servicing, 1st Floor, M
1 Home Campus
Des Moines, IA 50328

Zenith Acquisition
220 John Glenn Dr # 1
Amherst, NY 14228

/s/ _____
MAGDALENA GONZALES